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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,962	06/22/2001	Hassan Jomaa	JOMAA-5(PCT)	9943
25889	7590	03/09/2004	EXAMINER	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			SAEED, KAMAL A	
			ART UNIT	PAPER NUMBER
			1626	

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/868,962	<b>Applicant(s)</b> JOMAA, HASSAN	
	<b>Examiner</b> Kamal A Saeed	<b>Art Unit</b> 1626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-12 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

### ***DETAILED ACTION***

Claims 1-12 are currently pending in this application.

### ***Election/Restrictions***

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Due to the numerous variables in the claims, e.g. **R<sup>1</sup>**, **R<sup>2</sup>**, **R<sup>3</sup>**, etc and their widely divergent meanings, a precise listing of inventive groups cannot be made. The following groups are exemplary:

**Group I** claim(s) 1-7, 11 and 12 (all claims in part), are drawn to compounds of the Formula I and their pharmaceutical composition wherein: **R<sup>1</sup>** is a 5-membered heterocycle having **ONE** ring nitrogen; **A**, **B<sub>1</sub>-B<sub>10</sub>**, **R<sub>3</sub>-R<sub>5</sub>**, **X<sub>3</sub>** and **X<sub>4</sub>** are as defined classified in various subclasses of classes 514 and 548.

**Group II** claim(s) 1-7, 11 and 12 (all claims in part), are drawn to compounds of the Formula I and their pharmaceutical composition wherein: **R<sup>1</sup>** is a 5-membered heterocycle having **TWO** ring nitrogen; **A**, **B<sub>1</sub>-B<sub>10</sub>**, **R<sub>3</sub>-R<sub>5</sub>**, **X<sub>3</sub>** and **X<sub>4</sub>** are as defined classified in various subclasses of classes 514 and 548.

**Group III** claim(s) 1-7, 11 and 12 (all claims in part), are drawn to compounds of the Formula I and their pharmaceutical composition wherein: **R<sup>1</sup>** is a **5-membered** heterocycle having **THREE** ring nitrogen; **A**, **B<sub>1</sub>-B<sub>10</sub>**, **R<sub>3</sub>-R<sub>5</sub>**, **X<sub>3</sub>** and **X<sub>4</sub>** are as defined classified in various subclasses of classes 514 and 548.

**Group IV** claim(s) 1-7, 11 and 12 (all claims in part), are drawn to compounds of the Formula I and their pharmaceutical composition wherein: **R<sup>1</sup>** is a **5-membered** heterocycle

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having **THREE** ring nitrogen; **A**, **B<sub>1</sub>-B<sub>10</sub>**, **R<sub>3</sub>-R<sub>5</sub>**, **X<sub>3</sub>** and **X<sub>4</sub>** are as defined classified in various subclasses of classes 514 and 548.

**Group V** claim(s) 1-7, 11 and 12 (all claims in part), are drawn to compounds of the Formula I and their pharmaceutical composition wherein: **R<sup>1</sup>** is a **6-membered** heterocycle having **ONE** ring nitrogen; **A**, **B<sub>1</sub>-B<sub>10</sub>**, **R<sub>3</sub>-R<sub>5</sub>**, **X<sub>3</sub>** and **X<sub>4</sub>** are as defined classified in various subclasses of classes 514 and 548.

**Group VI** claim(s) 1-7, 11 and 12 (all claims in part), are drawn to compounds of the Formula I and their pharmaceutical composition wherein: **R<sup>1</sup>** is a **6-membered** heterocycle having **TWO** ring nitrogen; **A**, **B<sub>1</sub>-B<sub>10</sub>**, **R<sub>3</sub>-R<sub>5</sub>**, **X<sub>3</sub>** and **X<sub>4</sub>** are as defined classified in various subclasses of classes 514 and 548.

**Group VII** claim(s) 1-7, 11 and 12 (all claims in part), are drawn to compounds of the Formula I and their pharmaceutical composition wherein: **R<sup>1</sup>** is a polycyclic carbon having at least one heterocyclic ring nitrogen; **A**, **B<sub>1</sub>-B<sub>10</sub>**, **R<sub>3</sub>-R<sub>5</sub>**, **X<sub>3</sub>** and **X<sub>4</sub>** are as defined classified in various subclasses of classes 514 546, and 548.

**Group VIII** claim(s) 8-10, are drawn to methods of use of compounds of the formula I or formula II, classified in various subclasses of classes 514.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted. Again, **this list is not exhausted**, as it would be impossible under the time constraints due to the sheer volume of subject matter instantly claimed. Therefore, applicant may choose to elect a single invention by identifying another specific embodiment not listed in the exemplary groups of the invention and examiner will endeavor to group the same. **If applicant is unable to elect a single invention, applicant**

**may instead choose to elect a specific compound and examiner will attempt to group it.** The claims herein lack unity of invention under PCT Rule 13.1 and 13.2 since the compounds defined in the claims lack a significant structural element qualifying as the special technical

feature that defines a contribution over the prior art. The compounds claimed contain  $\text{P}=\text{O}$ , which is not a substantial common core and does not define a contribution over the prior art. The substituents vary extensively and when taken as a whole result in vastly different compounds. Accordingly, unity of invention is considered to be lacking and restriction of the invention in accordance with the rules of unity of invention is considered to be proper. Additionally, the vastness of the claimed subject matter and the complications in understanding the claimed subject matter imposes a burden on any examination of the claimed subject matter.

A telephone call was made to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

#### ***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamal Saeed whose telephone number is (571) 272-0705. The examiner can normally be reached on Monday-Friday from 7:00 AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (571) 272-0699.

Communication via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by applicant and should be addressed to [joseph.mckane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-2286.

Kamal Saeed  
Kamal Saeed, Ph.D  
Patent Examiner AI 1626  
03/03/2004